

## **IC 27-1-18**

### **Chapter 18. Additional Provisions Pertaining to Foreign and Alien Companies**

#### **IC 27-1-18-1**

##### **Policy provisions; foreign insurers; domestic insurers doing business in foreign state**

Sec. 1. The policies of a foreign or alien life insurance company, may, when issued in this state, contain any provision which the laws of the state, territory, district, or country under which the company is organized prescribes shall be in such policies and the method of valuation of such policies required by the laws of the state, territory, district, or country where such company is organized, shall be accepted by the department, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district, or country contain any provisions required by the laws of the state, territory, district, or country in which the same are issued or delivered, anything in this article other than in IC 27-1-12-5(5) to the contrary notwithstanding, provided that the provisions of the laws of such state, territory, district, or country are shown to the satisfaction of the department to as carefully safeguard the policyholders as do the laws of this state. *(Formerly: Acts 1935, c.162, s.234.) As amended by P.L.252-1985, SEC.76.*

#### **IC 27-1-18-2**

##### **Gross premium privilege tax**

Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

- (1) considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;
  - (2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;
  - (3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and
  - (4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.
- (b) A domestic company shall be taxed under this section only in

each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

(c) For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to the excess, if any, of the gross premiums over the allowable deductions multiplied by the following rate for the year that the report covers:

- (1) For 2000, two percent (2%).
- (2) For 2001, one and nine-tenths percent (1.9%).
- (3) For 2002, one and eight-tenths percent (1.8%).
- (4) For 2003, one and seven-tenths percent (1.7%).
- (5) For 2004, one and five-tenths percent (1.5%).
- (6) For 2005 and thereafter, one and three-tenths percent (1.3%).

(d) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

(e) Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

(f) Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

(g) In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

- (1) twenty-five percent (25%) of the total tax paid during the preceding calendar year; or
- (2) twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

(h) The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

(i) Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars (\$100) for each additional day such report and payment shall be delayed, not to exceed a maximum penalty of ten thousand dollars (\$10,000). The penalty may be ordered by the commissioner after a hearing under IC 4-21.5-3. The commissioner may revoke all authority of such defaulting company to do business within this state, or suspend such authority during the period of such default, in the discretion of the commissioner.

*(Formerly: Acts 1935, c.162, s.235; Acts 1963, c.301, s.1; Acts 1971, P.L.386, SEC.1.) As amended by P.L.252-1985, SEC.77; P.L.245-1987, SEC.15; P.L.268-1999, SEC.7; P.L.144-2000, SEC.2.*

### **IC 27-1-18-3**

#### **Amendment of articles; filing copies; effect**

Sec. 3. Each foreign or alien corporation admitted to do business in this state shall keep on file in the office of the department a duly authenticated copy of each instrument amending its articles of incorporation or association, but the filing of any such instrument shall not of itself enlarge or alter the character of business which the foreign corporation is authorized to transact in this state as set forth in the certificate of admission, unless such foreign corporation apply for and receive an amended certificate of admission as provided for in section 4 of this chapter.

*(Formerly: Acts 1935, c.162, s.236.) As amended by P.L.252-1985, SEC.78.*

### **IC 27-1-18-4**

#### **Amended certificate of authority**

Sec. 4. (a) Any foreign or alien corporation admitted to do business in this state may alter or enlarge the character of the business which it is authorized to transact in this state under its articles of incorporation or association, and any amendments thereof filed with the department as provided in section 3 of this chapter, by procuring an amended certificate of authority from the department in the manner provided in subsection (b).

(b) Whenever a foreign or alien corporation desires to procure such amended certificate, it shall present to the department at its office, accompanied by the fees prescribed by law, an application for an amended certificate of authority, setting forth the change desired in the kind or kinds of insurance business under its articles of incorporation or association which it intends to thereafter carry on in this state; the application shall be filed in duplicate in the form prescribed by the department by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified by the oaths of the officers signing the same.

(c) Upon the presentation of such application, accompanied by the corporation's certificate of authority, the department, if it find that it conforms to law and that the foreign or alien company has fulfilled the requirements set forth in subsection (b) and in section 3 of this chapter, may endorse its approval upon each of the duplicate copies of the application, and, in case of the approval of such application and when all fees required by law shall have been paid, shall file one (1) copy of the application in its office, cancel the certificate of authority presented with the application, and issue to the corporation a new certificate of authority, which certificate shall set forth the kind or kinds of business that the corporation is authorized thereafter to transact in this state, which shall be accompanied by one (1) copy of the application bearing the endorsement of the approval of the department.

(d) Upon the issuance of the new certificate of authority by the department, the corporation therein named shall have authority thereafter to transact in this state the kind or kinds of insurance business set forth in such certificate, subject to the terms and conditions prescribed in this article.

*(Formerly: Acts 1935, c.162, s.237.) As amended by P.L.252-1985, SEC.79.*

#### **IC 27-1-18-5**

##### **Condensed statement of assets and liabilities; examination; correction of statement; publication; expense**

Sec. 5. At the time of filing its annual statement, an alien or foreign company shall submit, on a form prescribed by the department, a condensed statement of its assets and liabilities as of December 31 of the preceding year. If the department, on examination of such statement, determines from information available to it that it is true and correct, it shall cause such statement to be published in a newspaper in this state selected by the department. In the event the department determines that the statement

submitted by a company is inaccurate or incorrect, it shall, after giving the company notice of the proposed changes and an opportunity to be heard, certify the corrected statement and proceed with its publication as above provided. The company shall bear the expenses of the publication, but in no event shall an amount exceeding forty dollars (\$40) be charged for such publication. Any cost of publication that exceeds forty dollars (\$40) must be borne by the newspaper publishing the statement.

*(Formerly: Acts 1935, c.162, s.238; Acts 1971, P.L.385, SEC.4.) As amended by P.L.267-1987, SEC.2; P.L.160-2003, SEC.3.*

## **IC 27-1-18-6**

### **Procedure for withdrawal**

Sec. 6. (a) Any foreign or alien corporation admitted to do business in this state may withdraw from this state by surrendering its certificate of authority and by filing with the department, accompanied by the fees prescribed by law, a statement of withdrawal setting forth:

- (1) the name of the corporation and the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States;
- (2) the date of the issuance of the original certificate of authority;
- (3) that it surrenders its authority to transact business in this state and returns for cancellation its certificate of authority; and
- (4) a post office address to which the commissioner may mail a copy of any process against the withdrawing company that may be served upon him.

(b) Such statement shall be signed, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and shall be verified by the oaths of the officers signing the same.

(c) The statement as provided for in this section shall be filed with the department, accompanied by a report of taxable premiums as provided for in section 2 of this chapter, the amount of tax shown to be due and payable by such report, its certificate of authority, and after the payment of the fees prescribed by law, the department shall cancel the certificate of authority and endorse the same thereon, and return such cancelled certificate to the company, and the authority of the company to transact an insurance business in this state shall cease, but the withdrawal and cessation of business shall not affect any action by or against such corporation pending at the time thereof, or any right of action existing at or before the filing of such statement, in favor of or against such company.

*(Formerly: Acts 1935, c.162, s.239.) As amended by P.L.252-1985, SEC.80.*